

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-CR-00101-RJC

USA

v.

MICHAEL LAMAR PERRY

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ORDER

THIS MATTER comes before the Court upon the defendant's response to show good cause to extend the fourteen day appeal period. (Doc. No. 42).

After this Court entered its sentencing judgment on July 13, 2016, (Doc. No. 36), the defendant filed a notice of appeal, postmarked on August 10, 2016, (Doc. No. 38), which referenced an earlier notice of appeal sent approximately one month before. Because the docketed notice of appeal was filed more than fourteen days after entry of the judgment, the Court ordered the defendant to respond within thirty days stating any grounds to extend the appeal period in Federal Rule of Appellate Procedure 4(b)(4) for excusable neglect or good cause. (Doc. No. 41).

The defendant timely filed the instant response explaining that he first sent a notice of appeal on July 8, 2016, two days after sentencing, which is not reflected on the docket. (Doc. No. 42 at 1). He asserts he was told by one deputy clerk of court that the notice had been received, but later told by another that it was not. (Id. at 1-2). Accordingly, he sent a second notice of appeal. (Doc. No. 38). The defendant also claims that he asked counsel on the day of sentencing to file an appeal, but has been abandoned since then. (Doc. No. 42: Response at 1). In the circumstances of this case, the Court finds good cause to extend the time for filing the notice of appeal.

IT IS, THEREFORE, ORDERED that the time for filing the notice of appeal is **EXTENDED** for 30 days from the expiration of the time otherwise provided by Rule 4(b).

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, the United States Attorney, and the Clerk of the United States Court of Appeals for the Fourth Circuit.

Signed: September 26, 2016

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

